

HOUSE BILL No. 4223

February 7, 2007, Introduced by Reps. McDowell, Lindberg, Bieda, Miller, Lahti, Young, Valentine, Meadows, Brown, Donigan, Warren, Leland, Spade, Ebli, Kathleen Law, Byrum, Gillard, Gonzales, Angerer, Clack and Hammon and referred to the Committee on Great Lakes and Environment.

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 11546 and 11549 (MCL 324.11546 and 324.11549),
section 11546 as amended by 2006 PA 56 and section 11549 as amended
by 2006 PA 58.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 11546. (1) The department or a health officer may request
2 that the attorney general bring an action in the name of the people
3 of the state, or a municipality or county may bring an action based
4 on facts arising within its boundaries, for any appropriate relief,
5 including injunctive relief, for a violation of this part or rules
6 promulgated under this part.

7 (2) In addition to any other relief provided by this section,
8 the court may impose on any person who violates ~~any provision of~~

1 this part or rules promulgated under this part or who fails to
2 comply with any permit, license, or final order issued pursuant to
3 this part, **EXCEPT A VIOLATION DESCRIBED IN SUBSECTION (4) OR (5)**, a
4 civil fine as follows:

5 (a) Except as provided in subdivision (b), a civil fine of not
6 more than \$10,000.00 for each day of violation.

7 (b) For a second or subsequent violation, a civil fine of not
8 more than \$25,000.00 for each day of violation.

9 (3) In addition to any other relief provided by this section,
10 the court may order a person who violates this part or the rules
11 promulgated under this part to restore, or to pay to the state an
12 amount equal to the cost of restoring, the natural resources of
13 this state affected by the violation to their original condition
14 before the violation, and to pay to the state the costs of
15 surveillance and enforcement incurred by the state as a result of
16 the violation.

17 (4) **A PERSON WHO DOES ANY OF THE FOLLOWING IS RESPONSIBLE FOR**
18 **A STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY A CIVIL FINE OF**
19 **NOT MORE THAN \$5,000.00 OR, FOR A SECOND OR SUBSEQUENT VIOLATION OF**
20 **THE SAME STATUTORY PROVISION OR RULE PROMULGATED THEREUNDER, NOT**
21 **MORE THAN \$10,000.00:**

22 (A) **OPERATES A SOLID WASTE TRANSPORT UNIT IN VIOLATION OF**
23 **SECTION 11527 OR 11528 OR RELATED RULES PROMULGATED UNDER THIS**
24 **PART.**

25 (B) **DELIVERS WASTE FOR DISPOSAL IN VIOLATION OF SECTION**
26 **11514(2)(A) OR (3).**

27 (C) **PERMITS THE DISPOSAL OF WASTE IN VIOLATION OF SECTION**

1 11514(2)(A) OR (D) OR (3)(A), (B), (E), (F), OR (H).

2 (D) TRANSPORTS OR DISPOSES OF WASTE IN VIOLATION OF AN ORDER
3 ISSUED BY THE DIRECTOR UNDER SECTION 11526C.

4 (E) CONDUCTS OPEN BURNING IN VIOLATION OF THIS PART OR RULES
5 PROMULGATED UNDER THIS PART.

6 (F) DISPOSES OF SOLID WASTE IN AN OPEN DUMP, AS DEFINED IN R
7 299.4104 OF THE MICHIGAN ADMINISTRATIVE CODE, IN VIOLATION OF THIS
8 PART OR RELATED RULES PROMULGATED UNDER THIS PART.

9 (5) A PERSON WHO DELIVERS WASTE FOR DISPOSAL OR WHO PERMITS
10 THE DISPOSAL OF WASTE IN VIOLATION OF SECTION 11514(2)(B) OR (C) IS
11 RESPONSIBLE FOR A STATE CIVIL INFRACTION AND MAY BE ORDERED TO PAY
12 A CIVIL FINE OF NOT MORE THAN \$100.00 OR, FOR A SECOND OR
13 SUBSEQUENT VIOLATION, NOT MORE THAN \$500.00.

14 (6) ~~(4)~~—In addition to any other relief provided by this
15 section, the court shall order a person who violates section 11526e
16 to return, or to pay to the state an amount equal to the cost of
17 returning, the solid waste that is the subject of the violation to
18 the country in which that waste was generated.

19 (7) ~~(5)~~—This part does not preclude any person from commencing
20 a civil action based on facts that may also constitute a violation
21 of this part or the rules promulgated under this part.

22 Sec. 11549. (1) ~~A—EXCEPT FOR VIOLATIONS DESCRIBED IN SECTION~~
23 ~~11546(4) AND (5), A~~ person who violates this part, a rule
24 promulgated under this part, or a condition of a permit, license,
25 or final order issued pursuant to this part is guilty of a
26 misdemeanor punishable by a fine of not more than \$1,000.00 for
27 each violation and costs of prosecution and, if in default of

1 payment of fine and costs, imprisonment for not more than 6 months.

2 (2) A person who knowingly violates section 11526e is guilty
3 of a felony punishable by imprisonment for not more than 2 years or
4 a fine of not more than \$5,000.00, or both.

5 (3) Each day upon which a violation described in this section
6 occurs is a separate offense.